



General Assembly

February Session, 2000

Amendment

LCO No. 3546

Offered by:

SEN. EADS, 30th Dist.

SEN. DELUCA, 32nd Dist.

SEN. NICKERSON, 36th Dist.

To: Subst. House Bill No. 5884

File No. 470

Cal. No. 336

***"An Act Concerning Powers And Duties Of The
Treasurer And The Investment Advisory Council."***

1 Strike out everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (a) There is created a Board of Trustees of the
4 Connecticut Retirement and Trust Funds, as defined in section 3-13c of
5 the general statutes, as amended by this act, which shall be composed
6 of the following members: (1) The State Treasurer, who shall serve as
7 an ex-officio, voting member; (2) the Secretary of the Office of Policy
8 and Management, who shall serve as an ex-officio, voting member; (3)
9 the chairperson of the Investment Advisory Council, who shall serve
10 as an ex-officio, voting member; and (4) four public members, each of
11 whom shall have a minimum of fifteen years' experience in the direct
12 management, analysis or supervision of investment of pension or
13 endowment assets, of which five years shall be such experience at a
14 senior level with assets of a minimum of one billion dollars. No two
15 public members of the board shall be employed by the same firm or

16 business. The State Treasurer and the Secretary of Office of Policy and
17 Management may each designate a deputy or any member of their
18 respective staffs to represent them at meetings of the board with full
19 power to act and vote on their behalves. Each member of the board
20 shall serve until a successor to such member is appointed and has been
21 qualified.

22 (b) (1) Each public member appointment to the board shall be made
23 from a list of qualified and available candidates prepared by the
24 Investment Advisory Council. The Investment Advisory Council shall
25 provide at least two nominees for each position. The list of nominees
26 shall be provided to the appointing authority at least sixty days prior
27 to expiration of a board member's term. The list may include
28 incumbent members willing to accept reappointment. The appointing
29 authority may require the Investment Advisory Council to provide
30 additional nominees if the nominees submitted are found to be
31 unacceptable. For appointment of the initial public members to the
32 board, the Investment Advisory Counsel shall provide at least two
33 nominees for each initial appointment no later than sixty days after the
34 effective date of this act.

35 (2) The initial appointments of the four public members of the board
36 of trustees shall be made as follows: (1) The minority leader of the
37 Senate shall appoint a member to serve for a term of six years from
38 July 1, 2000; (2) the minority leader of the House of Representatives
39 shall appoint a member to serve for a term of four years from July 1,
40 2000; (3) the president pro tempore of the Senate shall appoint a
41 member to serve for a term of three years from July 1, 2000; and (4) the
42 speaker of the House of Representatives shall appoint a member to
43 serve for a term of three years from July 1, 2000.

44 (3) Each subsequent appointment to the board shall be made by the
45 same appointing authority as the member being replaced. Each
46 subsequent appointment to the board shall be for a term of six years.

47 (c) The Governor shall designate one of the members of the board to

48 be the chairperson and the chairperson shall serve at the Governor's
49 pleasure. The State Treasurer may not serve as chairperson of the
50 board. The State Treasurer shall serve as secretary of the board. A
51 majority of the members of the board shall constitute a quorum for the
52 transaction of any business, and any action of the board shall be by
53 vote of a majority of the members. Members may participate in board
54 meetings by teleconference or telephone. In the case of a tie vote on
55 any matter before the board, the side on which the chairperson votes
56 shall be deemed to prevail. Votes regarding investment policies shall
57 be recorded in the minutes of each meeting.

58 (d) Public members of the board shall receive a per diem payment of
59 five hundred dollars for each board meeting attended not to exceed
60 one meeting per day or a total amount in the aggregate of ten
61 thousand dollars per year. Such amounts shall be adjusted every three
62 years to reflect any increases in the consumer price index for urban
63 consumers during the preceding twelve-month period, according to
64 United States Bureau of Labor Statistics data. All members shall be
65 reimbursed for all necessary expenses incurred in the performance of
66 their duties as members of said board. The board shall meet at least
67 once during each calendar quarter and at such other times as the
68 chairperson deems necessary or upon the request of a majority of the
69 members. Special meetings shall be held at the request of such majority
70 after notice in accordance with the provisions of section 1-225 of the
71 general statutes, as amended. Any member who fails to attend three
72 consecutive meetings or who fails to attend fifty per cent of all
73 meetings held during any calendar year shall be deemed to have
74 resigned from the board. The Freedom of Information Act, as defined
75 in section 1-200 of the general statutes, shall apply to all actions,
76 meetings and records of the board. Members of the board shall be
77 subject to part I of chapter 10 of the general statutes.

78 (e) The board of trustees shall be within the Office of the State
79 Treasurer for administrative purposes only.

80 Sec. 2. (NEW) (a) Each member of the Board of Trustees of the

81 Connecticut Retirement and Trust Funds, established under section 1
82 of this act, shall be a fiduciary of the trust funds, listed in section 3-13c
83 of the general statutes, as amended by this act, and shall discharge any
84 duties with respect to such trust funds (1) solely in the interest of the
85 participants and beneficiaries; (2) for the exclusive purpose of
86 providing benefits to participants and beneficiaries, and defraying
87 reasonable expenses of administering the trust funds; (3) with the care,
88 skill, prudence and diligence under the circumstances then prevailing
89 that a prudent person acting in a like capacity and familiar with such
90 matters would use in the conduct of an enterprise of a like character
91 and with like aims; and (4) by diversifying the investments of the plan
92 so as to minimize the risk of large losses, unless under the
93 circumstances it is clearly prudent not to do so.

94 (b) No member of the board, whose actions are within the standard
95 of care provided for in subsection (a) of this section, shall be held
96 personally liable for losses suffered by the trust funds by any action
97 taken under the authority of chapter 32 of the general statutes. The
98 authority empowered to appoint a public member may remove such
99 member from the board for misfeasance, malfeasance or wilful neglect
100 of duty.

101 (c) No public member of the board, or any business organization or
102 affiliate of such member, may directly or indirectly enter into a
103 contract in connection with, or provide any services involving, the
104 retirement or investment of trust funds of the state of Connecticut
105 during the time of such member's service on the board and for two
106 years thereafter. No public member, business organization or affiliate
107 of such a member, or any political action committee controlled by such
108 business organization or affiliate, may make a contribution, as defined
109 in 9-333b of the general statutes, to an exploratory committee or a
110 candidate committee established by a candidate for nomination or
111 election to the office of State Treasurer.

112 Sec. 3. (NEW) (a) The Board of Trustees of the Connecticut
113 Retirement and Trust Funds, with the advice of the Investment

114 Advisory Council, shall adopt, and may from time to time amend, a
115 comprehensive investment policy for such funds. The policy shall
116 include, but not be limited to, (1) provisions regarding prudent asset
117 allocation, (2) categories and types of suitable investments, (3) other
118 diversification criteria, such as by risk classifications, (4) acceptable
119 and unacceptable derivative investment products, (5) appropriate
120 benchmarks for measuring performance of various segments of the
121 portfolio, and (6) criteria and procedures for hiring and dismissing
122 outside managers.

123 (b) The board shall annually adopt an operating budget for the trust
124 fund investment function and shall appoint an internal auditor who
125 shall be responsible solely to the board.

126 (c) The board of trustees may, with the advice of the Investment
127 Advisory Council, select and hire outside fund managers and upon the
128 written request of the State Treasurer, invest civil and other funds that
129 have been deposited with the Treasurer.

130 Sec. 4. Section 3-13a of the general statutes is repealed and the
131 following is substituted in lieu thereof:

132 (a) The [Treasurer] Board of Trustees of the Connecticut Retirement
133 and Trust Funds shall, with the advice and consent of the Investment
134 Advisory Council, appoint [an assistant treasurer for investments] a
135 chief investment officer, who shall serve at the pleasure of the
136 [Treasurer. Such assistant] board and shall be sworn to the faithful
137 discharge of [his] the duties of such office. [He] The chief investment
138 officer shall be employed under contract with the board who shall set
139 the qualifications and compensation for such officer, with the advice
140 and consent of the Investment Advisory Council. The chief investment
141 officer shall, under the direction of the [Treasurer] board and subject to
142 the provisions of sections 3-13 to 3-13d, inclusive, as amended by this
143 act, and 3-31b, advise the [Treasurer] board on investing the funds of
144 the state. [He] The chief investment officer shall also perform such
145 other duties as the [Treasurer] board may direct. In addition to [such

146 assistant treasurer, the Treasurer] the chief investment officer, the
147 board may, with the advice and consent of the Investment Advisory
148 Council, appoint investment officers [and other personnel,] to assist
149 [said assistant treasurer, which officers and other personnel shall serve
150 at the pleasure of the Treasurer] the chief investment officer.

151 (b) The [Treasurer] board may retain legal counsel and professional
152 investment counsel to evaluate and recommend to [him] the board
153 changes in the portfolio of the state's trust and other funds. [Said] The
154 investment counsel shall inform the [Treasurer] board of suitable
155 investment opportunities and shall investigate the investment merit of
156 any security or group of securities.

157 (c) The cost of operating the investment department including the
158 cost of personnel, legal counsel and professional investment counsel
159 retained under sections 3-13 to 3-13d, inclusive, as amended by this
160 act, and 3-31b shall be paid by the Treasurer charging the income
161 derived from the trust funds.

162 Sec. 5. Subsections (c) to (e), inclusive, of section 3-13b of the general
163 statutes is repealed and the following are substituted in lieu thereof:

164 (c) All investments by the State Treasurer or the Board of Trustees of
165 the Connecticut Retirement and Trust Funds shall be reviewed by said
166 Investment Advisory Council. The council shall recommend to the
167 State Treasurer or the board, as the case may be, investment policies
168 consistent with the law pertaining to the kind or nature of investment,
169 including limitations, conditions or restrictions upon the methods,
170 practices or procedures for investment, reinvestment, purchase, sale or
171 exchange transactions. The Governor may direct the Treasurer or the
172 board to change any investments made by the Treasurer or the board
173 when in the judgment of said council such action is for the best interest
174 of the state. Said council shall, at the close of the fiscal year, make a
175 complete examination of the security investments of the state and
176 determine as of June thirtieth, the value of such investments in the
177 custody of the Treasurer or the board and report thereon to the

178 Governor, the General Assembly and beneficiaries of trust funds
179 administered, held or invested by the Treasurer. With the approval of
180 the Treasurer, the board and the council, said report may be included
181 in the Treasurer's annual report. The provisions of this section shall
182 apply to all investments made by the Treasurer and the board for both
183 trust and civil list funds.

184 (d) The Investment Advisory Council shall be within the office of
185 the State Treasurer for administrative purposes only.

186 (e) For the purposes of this section, "board" means the Board of
187 Trustees of the Connecticut Retirement and Trust Funds established
188 under section 1 of this act, "teachers' union" means a representative
189 organization for certified professional employees, as defined in section
190 10-153b, and "state employees' union" means an organization certified
191 to represent state employees [,] pursuant to section 5-275.

192 Sec. 6. Section 3-13c of the general statutes, as amended by section 1
193 of public act 99-70, is repealed and the following is substituted in lieu
194 thereof:

195 Trust funds as used in sections 3-13 to 3-13e, inclusive, as amended
196 by this act, and 3-31b shall be construed to include Connecticut
197 Municipal Employees' Retirement Fund A, Connecticut Municipal
198 Employees' Retirement Fund B, Soldiers, Sailors and Marines Fund,
199 State's Attorney Retirement Fund, Teachers' Annuity Fund, Teachers'
200 Pension Fund, Teachers' Survivorship and Dependency Fund, School
201 Fund, State Employees Retirement Fund, the Hospital Insurance Fund,
202 Policemen and Firemen Survivor's Benefit Fund and all other trust
203 funds administered , or held [or invested] by the Treasurer or invested
204 by the Board of Trustees of the Connecticut Retirement and Trust
205 Funds established under section 1 of this act.

206 Sec. 7. Section 3-13d of the general statutes is repealed and the
207 following is substituted in lieu thereof:

208 (a) Notwithstanding any other provision in the general statutes or

209 elsewhere to the contrary, the [Treasurer] Board of Trustees of the
210 Connecticut Retirement and Trust Funds, established under section 1
211 of this act shall invest as much of the state's trust funds as are not
212 required for current disbursements in accordance with the provisions
213 of section 45a-203 or the provisions of this part. Notwithstanding the
214 provisions of this section or any other provision in the general statutes
215 or elsewhere to the contrary, the [Treasurer] board shall not invest
216 more than fifty-five per cent of the market value of each such trust
217 fund in common stock, except in the event of a stock market
218 fluctuation that causes the common stock percentage to increase and
219 the [Treasurer] board deems it in the best interest of such trust fund to
220 maintain a higher percentage of equities, provided the [Treasurer]
221 board shall not allow the market value of each such trust fund in
222 common stock to exceed fifty-five per cent for more than six months
223 after such fluctuation occurs. Investments in real estate investment
224 trusts (REITS) shall be considered alternative investments and not
225 common stock investments under this section. In order to increase the
226 income for each such combined investment fund established pursuant
227 to section 3-31b, the [Treasurer] board may enter into repurchase
228 agreements or lend securities from each such fund, provided that at
229 the time of the execution of the repurchase agreement or the loan at
230 least one hundred per cent of the market value of the security sold or
231 lent shall be received as consideration in the form of cash or securities
232 guaranteed by the United States government or any agency of the
233 United States government in the case of a repurchase agreement or
234 secured by cash or such securities in the case of a loan. At all times
235 during the term of each such repurchase agreement or the term of each
236 such loan the consideration received or the collateral shall be equal to
237 not less than ninety-five per cent of the full market value of the
238 security and said consideration received or said collateral shall not be
239 more than one hundred thousand dollars less than the full market
240 value of the security. The [Treasurer] board may sell call options which
241 would give the holders of such options the right to purchase securities
242 held by the [Treasurer] board at the date the call is sold for investment
243 purposes, under such terms and conditions as the [Treasurer] board

244 may determine. Among the factors to be considered by the [Treasurer]
245 board with respect to all securities may be the social, economic and
246 environmental implications of investments of trust funds in particular
247 securities or types of securities. In the investment of the state's trust
248 funds the [Treasurer] board shall consider the implications of any
249 particular investment in relation to the foreign policy and national
250 interests of the United States.

251 (b) Notwithstanding any other provision in the general statutes or
252 elsewhere to the contrary, the [Treasurer] board may invest as much of
253 the state's trust funds as are not required for current disbursements in
254 Connecticut mortgage pass-through certificates. As used in this
255 section, "Connecticut mortgage pass-through certificate" means (1) a
256 certificate evidencing ownership of an undivided interest in a pool of
257 mortgage loans, each of which is secured by a first mortgage on real
258 property located in this state improved by one-to-four-family
259 residential dwellings or units, where such mortgage loans are assigned
260 to a trust company or bank having the powers of a trust company
261 within or without the state, as trustee for the benefit of the holders of
262 such certificates, or (2) any Federal Home Loan Mortgage Corporation
263 pass-through certificate or Federal National Mortgage Association
264 securities backed by mortgage loans, each of which is secured by a first
265 mortgage on real property located in this state improved by one-to-
266 four-family residential dwellings or units; provided such mortgage
267 loans are originated by any bank, trust company, national banking
268 association, savings bank, federal mutual savings bank, savings and
269 loan association, federal savings and loan association, credit union, or
270 federal credit union authorized to do business in this state or by any
271 lender authorized to do business in this state and approved by the
272 federal Secretary of Housing and Urban Development for participation
273 in any mortgage insurance program under the National Housing Act.
274 In exercising his discretion to invest the state's trust funds in
275 Connecticut mortgage pass-through certificates and in considering the
276 yield on such investments, the [Treasurer] board shall give preference
277 to pools of mortgage loans which contain loans to persons who at the

278 time of mortgage application are contributors to state pension and
279 retirement funds included among the trust funds defined in section 3-
280 13c or who have been past contributors to such funds and who
281 continue to maintain a financial interest therein, and may consider
282 furtherance of the public policy of increasing the amount of reasonably
283 priced mortgage loans available to state residents. Nothing in this
284 section shall prevent the [Treasurer] board from investing state trust
285 funds in mortgage pass-through certificates other than Connecticut
286 mortgage pass-through certificates.

287 (c) Except in the event of an express repeal of this subsection, no
288 pool of mortgage loans, the ownership of which is evidenced by
289 Connecticut mortgage pass-through certificates, shall be subject to any
290 tax imposed by the state if all of the outstanding Connecticut mortgage
291 pass-through certificates respecting such pool were at any time owned
292 by or on behalf of any one or more of the state's trust funds.

293 (d) Notwithstanding any other provision in the general statutes or
294 elsewhere to the contrary, the [Treasurer] board may enter into
295 contracts with any life insurance company authorized to do business in
296 Connecticut under which any amounts held in the state's trust funds
297 may be used to purchase pension funding contracts and contracts
298 providing for participation in separate accounts or under which funds
299 become a part of the general account of any such life insurance
300 company.

301 Sec. 8. Section 3-13e of the general statutes is repealed and the
302 following is substituted in lieu thereof:

303 (a) The following terms, when used in this section shall have the
304 following meanings, unless the context otherwise requires: (1) "Trust
305 fund" means any of the funds listed in section 3-13c; (2) "board" means
306 the Board of Trustees of the Connecticut Retirement and Trust Funds
307 established under section 1 of this act; (3) "mortgage lender" means any
308 bank and trust company, savings bank or savings and loan association
309 chartered under the laws of the state, national banking association,

310 federal savings and loan association, insurance company authorized to
311 transact business in the state or other firm or corporation subject to the
312 banking laws of Connecticut and approved by the Treasurer; and (4)
313 "pension and retirement fund contributor" means any person who at
314 the time of receiving a mortgage-secured loan from a mortgage lender
315 as provided in subsection (b) of this section is, and has been during the
316 three years immediately preceding such loan, a contributor to any
317 pension or retirement fund included among the trust funds listed in
318 this subsection.

319 (b) Notwithstanding any provision of the general statutes to the
320 contrary, the [Treasurer] board may invest as much of the funds of any
321 trust fund as are not required for current disbursements, in loans to
322 mortgage lenders, subject to the following conditions: (1) Any such
323 investment shall be secured as to payment of both principal and
324 interest by a pledge of and lien upon collateral security of such nature,
325 in such amounts and under such terms as the [Treasurer] board shall
326 determine; (2) any such mortgage lender shall within a reasonable
327 period of time, as determined by the [Treasurer] board, following
328 receipt by such mortgage lender of the loan proceeds, enter into
329 written commitments to make and shall thereafter proceed as
330 promptly as practicable to make and disburse loans from such loan
331 proceeds, in an aggregate principal amount not less than the amount of
332 such loan proceeds, and each such loan shall be secured by a mortgage
333 of residential real property containing not more than four dwelling
334 units and situated within the state, provided no more than twenty
335 million dollars in such loans to mortgage lenders shall be outstanding
336 at any one time and no more than ten million dollars in such loans
337 shall be made in any one fiscal year, and further provided, the
338 aggregate of such loans outstanding to any single mortgage lender
339 shall not exceed the greater of one million dollars or one per cent of the
340 deposits of such mortgage lender. Pension and retirement fund
341 contributors shall be afforded a preference with respect to receipt of
342 loans made under the provisions of this section, subject to such
343 procedures as the [Treasurer] board may prescribe.

344 Sec. 9. Section 3-13g of the general statutes is repealed and the
345 following is substituted in lieu thereof:

346 The State Treasurer and the Board of Trustees of the Connecticut
347 Retirement and Trust Funds established under section 1 of this act shall
348 review the major investment policies of the state for purposes of
349 ensuring that state funds are not invested in any corporation engaged
350 in any form of business in Iran which could be considered to be
351 contrary to the foreign policy or national interests of the United States,
352 particularly in respect to the release of all American hostages held in
353 Iran.

354 Sec. 10. Section 3-13h of the general statutes is repealed and the
355 following is substituted in lieu thereof:

356 (a) The State Treasurer and the Board of Trustees of the Connecticut
357 Retirement and Trust Funds established under section 1 of this act
358 shall review the major investment policies of the state for the purpose
359 of determining the extent to which moneys are invested in
360 corporations doing business in Northern Ireland which have not
361 adopted the MacBride principles. In whatever manner may be deemed
362 appropriate by the State Treasurer, corporations in which the state has
363 invested assets and which have operations in Northern Ireland shall be
364 urged to adopt and implement the MacBride principles with respect to
365 such operations and where necessary and appropriate to initiate or
366 support shareholder initiatives requiring such corporate action.

367 (b) In carrying out [his] their fiduciary [responsibility]
368 responsibilities, the State Treasurer [shall, within a period of time not
369 exceeding three years immediately following May 18, 1987, disinvest
370 all state funds currently invested in any corporations doing business in
371 Northern Ireland] and the board shall invest no new state funds in any
372 such corporation unless such corporation has implemented the
373 MacBride principles. In accordance with sound investment criteria
374 consistent with prudent standards of fiduciary responsibility, the State
375 Treasurer and the board shall, with respect to state funds available for

376 future investment in corporations doing business in Northern Ireland,
377 including such funds available as a result of such disinvestment as
378 prescribed in this subsection, invest such funds in corporations
379 conducting their operations in Northern Ireland in accordance with the
380 MacBride principles, which are as follows: (1) Increasing the
381 representation of individuals from underrepresented religious groups
382 in the workforce, including managerial, supervisory, administrative,
383 clerical and technical jobs; (2) providing adequate security for the
384 protection of minority employees at the workplace and while traveling
385 to and from work; (3) banning provocative religious or political
386 emblems from the workplace; (4) publicly advertising all job openings
387 and making special recruitment efforts to attract applicants from
388 underrepresented religious groups; (5) layoff, recall and termination
389 procedures which do not in practice favor particular religious
390 groupings; (6) abolishing job reservations, apprenticeship restrictions
391 and differential employment criteria, which discriminate on the basis
392 of religion or ethnic origin; (7) developing training programs that will
393 prepare substantial numbers of current minority employees for skilled
394 jobs, including the expansion of existing programs and the creation of
395 new programs to train, upgrade and improve the skills of minority
396 employees; (8) establishing procedures to assess, identify and actively
397 recruit minority employees with potential for further advancement;
398 and (9) appointing a senior management staff member to oversee the
399 company's affirmative action efforts and the setting up of timetables to
400 carry out affirmative action principles.

401 Sec. 11. (NEW) (a) The State Treasurer and the Board of Trustees of
402 the Connecticut Retirement and Trust Funds established under section
403 1 of this act shall not invest the combined investment funds,
404 established pursuant to section 3-31b of the general statutes, or the
405 trust funds specified in section 3-13c of the general statutes, as
406 amended, as the case may be, by utilizing an internal trading desk.
407 This subsection shall not apply to the cash reserve account or the Short
408 Term Investment Fund, established under section 3-27a of the general
409 statutes, or successor funds.

410 (b) Neither the State Treasurer or any agent or employee of the
411 Treasurer, nor the Board of Trustees of the Connecticut Retirement and
412 Trust Funds or any agent or employee of the board, shall direct which
413 broker or firm executes a trade or transaction with respect to the
414 combined investment funds or the trust funds specified in section 3-
415 13c of the general statutes, as amended.

416 (c) No firm or person shall be entitled to a finder's fee unless such
417 firm or person has provided a commensurate service for the Treasurer
418 or the board. No firm or person who provides commensurate service
419 to the Treasurer or the board shall be directed by the Treasurer, the
420 board of trustees or any agent or employee of either with respect to the
421 disposition of a fee or the payment of a fee to a third party.

422 (d) The Treasurer and the board shall require disclosure of all fees,
423 commissions, contracts and subcontracts to third parties paid by any
424 person or firm doing or seeking to do business with the Treasurer or
425 the board. The Treasurer and the board shall maintain records of all
426 such disclosures which shall be subject to audit by the Auditors of
427 Public Accounts.

428 Sec. 12. This act shall take effect July 1, 2000."